



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,838	07/16/2003	Terry A. Scott	27087/39530	8778

4743 7590 01/24/2006

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT PAPER NUMBER

3728

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,838

Applicant(s)

SCOTT, TERRY A

Examiner

Shian T. Luong

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/16/05
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 7-9, 13-17, 20-22, 26-27 is/are allowed.
- 6) ☒ Claim(s) 28-34 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 10-12, 18, 19 and 23-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4,7-9,13-17,20-22,26,27 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Miyake (US 6,474,471). Miyake disclose a packaging system comprising a container 14 having a rim adjacent element 44 defining an open end. The rim extends around the lower part of the container. A carrying assembly 12 having a first lower portion (the lowermost area of the carrying assembly) for securely capturing the container rim and a second upper portion (area above the lower portion) comprising a blister package. The blister package including a blister section forming a carrying handle for the system. The blister package is generally arch shaped along the top portion. The blister package includes blister sections on opposing sides (the top and bottom sides) to form the carrying handle. The blister section on the top side is formed with an enlarged perimeter portion (the indented area from the exterior side of element 12) following the generally arch shape of the blister package. The blister package has blister portions 22,24 for receiving items. A display card is in the blister package. An upper supporting surface is the interior surface of element 12. The upper supporting portion has deformation 22. The lower supporting surface is the area below the upper supporting surface and has a space 24. The cover is the area that is within the blister package and engages the container opening.

3. Claims 1-4,7,9,13-17,20,22,26,27 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Glassman (US 6,227,369). Glassman disclose a packaging system comprising a container 14 having a rim 20 defining an open end. A carrying assembly 12 having a first lower portion (the portion below 12a) for securely capturing the container rim and a second portion comprising a blister package which is the area above the lower portion. The blister package includes a blister section forming a carrying handle for the system. The blister package is generally arch shaped along the top portion. The blister package includes blister sections on opposing sides (the top and bottom sides) to form the carrying handle. The blister section on the

Art Unit: 3728

top side is formed with an enlarged perimeter portion following the generally arch shape of the blister package. A display card is in the blister package. An upper supporting surface is the interior surface of element 12. The upper supporting portion has deformation 12a. The lower supporting surface is the area below the upper supporting surface and has a space 12. The cover is the area of the blister package that engages the container opening.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 and 21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Glassman over Miyake. Although Glassman does not disclose the location of the display card, it would have been obvious in view of Miyake to provide a display card in the package to indicate the content or information therein. Miyake disclose a packaging system comprising a container 14 having a rim adjacent element 44 defining an open end. A carrying assembly having a first portion (the area adjacent to element 42) for securely capturing the container rim and a second portion comprising a blister package. The blister package including a blister section forming a carrying handle for the system. The blister package is generally arch shaped along the top portion. The blister package includes blister sections on opposing sides (the top and bottom sides) to form the carrying handle. The blister section on the top side is formed with an enlarged perimeter portion (the indented area from the exterior side of element 12) following the generally

Art Unit: 3728

arch shape of the blister package. The blister package has blister portions 22,24 for receiving items. A display card is in the blister package. An upper supporting surface is the interior surface of element 12. The upper supporting portion has deformation 22. The lower supporting surface is the area below the upper supporting surface and has a space 24. The cover is the area that engages the container opening.

Response to Arguments

6. Applicant's arguments filed on 11/16/05 have been fully considered but they are not persuasive. Applicant argues that Miyake does not disclose either a container having a rim defining an opening or a first portion of a carrying assembly securely capturing the container. In addition, applicant argues that Miyake only shows a blister package and lacks the first portion as claimed. Contrary to the statement, container 14 has a rim that extends around the periphery of the container. The rim defines an open end of the container where recess 26 is situated. A first portion or the lower portion of element 12 securely attaches the rim of the container by the engagement of the protruding area. Just as the blister package of the instant invention is above the lower portion, so is the blister package of Miyake where the cavities shown are elements 22,24. Evidently, the lower portion is disposed at a different location from the upper portion.

Applicant further argues that Glassman only teaches mating clamshell and not the structure as claimed. The argument is directed to the lack of a container and first and second portions of a carrying assembly being disposed at different locations of the carrying assembly. However, as identified above, the container is identified as element 14. The lower portion of the carrying assembly is the area below element 12a and any area above the lower portion is

Art Unit: 3728

considered the upper portion. They are at different locations of the carrying assembly. Hence, the arguments with regard to Glassman is also not found persuasive.

Allowable Subject Matter

7. Claims 5-6, 10-12, 18-19, 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 28-34 are allowed.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3728

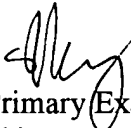
Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is **571-273-8300**. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST.

STL
January 19, 2006


Primary Examiner
Shian Luong
Art Unit 3728